

**TOWN OF UNDERHILL  
SELECTBOARD SPECIAL MEETING MINUTES  
Underhill Town Hall  
Tuesday, April 2, 2019, 1:30 p.m.**

**Selectboard:** Pat Sabalis, Dan Steinbauer and Bob Stone

**Town Staff:** Sherri Morin, Jennifer Silpe-Katz, Brian Bigelow and Andrew Strniste

**Public:** Joseph McLean, John Klesch, Rick Heh, Peter Bennett, Stacy Turkos and Karen McKnight

**1:30 p.m. Call to order, adjustments to agenda.** Meeting called to order by Pat Sabalis. No adjustments to agenda.

**1:31 p.m. Public Comment Period.** No public comment.

**1:32 p.m. Presentation about Vermont's Open Meeting Law**

Attorneys Joseph McLean and John Klesch of Stitzel Page & Fletcher presented an overview on Open Meeting Law and Responding to Public Records Requests. Handouts distributed and attached.

**Executive Session.**

Pat Sabalis moved that the Selectboard find that the premature public knowledge of discussions with Town attorneys about specific questions related to the Open Meeting Law and Public Records Law would clearly place the Town at a substantial disadvantage because it would disclose legal advice and potentially waive the attorney-client privilege if the discussion occurs in open session. Dan Steinbauer seconded and the motion passed 3-0.

Pat Sabalis moved that the Selectboard enter Executive Session with Town Clerk, Town Administrator, Planning Director and Town attorneys to obtain legal advice regarding the Open Meeting Law and Public Records Law, under the provisions of Title 1, Section 313(a)(F) of the Vermont Statutes. Dan Steinbauer seconded and the motion passed 3-0.

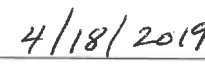
At 4:01 p.m. Pat Sabalis moved to exit Executive Session. Dan Steinbauer seconded and the motion passed 3-0.

**4:02 p.m. Adjournment:** On a motion made by Pat Sabalis and seconded by Bob Stone, the Selectboard voted 3-0 to adjourn.

Submitted by Brian Bigelow, Town Administrator

Read and Approved as submitted/amended

  
\_\_\_\_\_  
Pat Sabalis, Chair

  
\_\_\_\_\_  
Date





# **Vermont Open Meeting Law**

## **1 V.S.A. §310 - §314**

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# Open Meeting Law

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**ALL OFFICERS OF GOVERNMENT ARE  
“TRUSTEES AND SERVANTS”  
OF THE PEOPLE  
AND  
“AT ALL TIMES, IN A LEGAL WAY,  
ACCOUNTABLE TO THEM”**

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## The Basics

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- Meetings of a public body are to be open at all times.
- No resolution, rule, regulation, appointment, or formal action shall be binding unless taken or made at an open meeting.
- A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139.

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## "Meeting"



- **A "Meeting" is:**

The gathering of a quorum of the members of a public body

To discuss the business of the public body OR for the purpose of taking action.

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## A "Meeting" is not

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- **Communications -- in person or through e-mail, telephone, or teleconferencing -- between members of the public body to**
  - schedule a meeting,
  - organize an agenda, or
  - distribute materials to discuss at a meeting.

**Provided that no other business of the public body is discussed or conducted AND any written communications shall be available under the Public Records Act.**
- **Occasions when a quorum is together at**
  - social gatherings
  - conventions
  - conferences
  - training programs
  - media events or press conferences

**Provided the public body does not discuss specific business of the body expected to be discussed by the body later.**
- **Attendance at a duly warned meeting or another public body, as long as the first body takes no binding action.**

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## A Quorum

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- **A "Quorum" is:**

A majority of the members of a board.

For action of a board, majority of board (not just a majority of the quorum), must vote in favor.

Board of Civil Authority:

- **Quorum = BCA members present at meeting.**
- **Action requires concurrence of at least 3 members of BCA.**

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## Gathering

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- **A Public Body may “gather” electronically or telephonically. In that case:**  
Non-attending members can participate in discussion and voting but any  
vote of the public body that is not unanimous shall be taken by roll call

Non-attending member(s) must:

- (i) **identify themselves when the meeting is convened; and**
- (ii) **be able to hear the conduct of the meeting and be heard throughout the meeting.**

- **If a quorum or more of the members attend without being physically present,**

the agenda must designate at least one physical location where the public can attend and participate in the meeting.

And, at least one member of the public body or a staff member or Board designee must be physically present at each designated meeting location.

## Public Body

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- **Any board, council, or commission of:**

- The State or one (or more) of its political subdivisions
- Any agency, authority, or instrumentality of the State or one (or more) of its political subdivisions,
- Any committee of any of the foregoing boards, councils, or commissions.

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## A Meeting Is A Meeting, Right?

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- **Four types of “meeting”**
  - Regular
  - Special
  - Emergency
  - Adjourned

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## Regular Meeting

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- **Held on a regular basis, at same place, time and day of the week AS APPROVED, OR SET BY LAW**

312(c)(1) The **time and place of all regular meetings** ... shall be clearly designated by statute, charter, regulation, ordinance, bylaw, **resolution**, or other determining authority of the public body

This information shall be available to any person upon request.

- **Place to transact most business of the public body**
- **Typically set at the organizational meeting**

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## Special Meetings

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- The **time, place, and purpose** of a special meeting must be publicly announced **at least 24 hours before the meeting.**
- **Notices** of special meetings must be posted in or near the **municipal clerk's office** and in **at least two other designated public places** in the municipality **at least 24 hours before the meeting.**
- **AND,** notice shall be given either orally or in writing to each member of the public body at least 24 hours before the meeting, except that a member may waive notice of a special meeting.

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## Emergency Meeting

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- **Emergency meetings may be held**  
without public announcement,  
without posting of notices, and  
without 24-hour notice to members, PROVIDED some public  
notice is given as soon as possible before any such meeting.
- **Held only when necessary to respond to an  
unforeseen occurrence or condition requiring  
immediate attention.**

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## Adjourned Meeting

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- **A meeting may be “adjourned”**

- By motion

- **If adjourned to**

- Unspecified date or time -- has to be warned as a new meeting

- A specific date and time, no new meeting need be warned  
PROVIDED the new date and time is specified BEFORE  
MEETING ADJOURNED!

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## Agenda

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- **Regular Meeting – Post agenda at least 48 hours in advance**

On body's website – maintained or designated

In or near the municipal office AND

At least 2 other designated public places in the municipality

- **Special Meeting – Same places but at least 24 hours in advance.**

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## Agenda

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- If someone asks for agenda ahead of the meeting, the body must provide it when it becomes available
- Any addition or deletion shall be made as first act of business at the meeting.
- Any other adjustment (moving agenda items) may be made at any time during the meeting.

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## Agenda

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- **Agendas should reasonably inform the interested public of what may be discussed at the meeting.**
- **Public Comment Period –**
  - Some boards allow public comment at the start of the meeting
  - Others place it as the final agenda item.
  - Some boards allow public comment whenever anyone present has something to add.
- **The public comment period, however, is not a free-for-all.**
  - Chair may establish reasonable rules to maintain order.
  - Reasonable time limits for each speaker.

Vt. Secretary of State: "A Guide to Open Meetings."

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## Public Comment

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- **Matters considered by public body:**

- Reasonable opportunity for public to express its opinion, as long as order is maintained.
- Public comment shall be subject to reasonable rules established by the chairperson.
- Does not apply to quasi-judicial proceedings.

- **Generally:**

- Agenda item for public comment at beginning/end of meeting.

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## Minutes

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- **Minutes of all public meetings shall be:**

matters of public record,

kept by the clerk or secretary of the public body, and

available for inspection by any person and for purchase of copies at cost upon request after **five (5) calendar days** from the date of the meeting.

posted no later than **five (5) calendar days** from the date of the meeting to a website, if one exists, that the public body maintains or has designated as the official website of the body.

- **Minutes (except draft minutes replaced by approved minutes) shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken.**

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## Content of Minutes

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- **Minutes shall:**
  - cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting.
- **Minutes shall include at least the following:**
  - all members of the public body present;
  - all other active participants in the meeting;
  - all motions, proposals, and resolutions made, offered, and considered, and the disposition made of them; and
  - the results of any votes, with a record of the individual vote of each member if a roll call is taken.
- Indicate non-members who attend executive session.

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## When the Public May Be Excluded

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## No Public Access

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- **§ 312(e) – Deliberations:** Deliberations of public bodies in connection with quasi-judicial proceedings.

- **§ 312(g) – Meetings for routine administrative matters:**

Routine day-to-day administrative matters and certain specific duties are permitted provided

that no money is appropriated, expended, or encumbered AND no action is required by the public body.

• Lists maintenance of the grand list

- **§ 313 – Executive Session**

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## What Are Quasi-Judicial Proceedings

1 V.S.A. § 310(6)

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- **Quasi-judicial proceedings are those where members decide the rights of parties, such as:**

a contested case under the Vt. Administrative Procedures Act;  
a case where the legal rights of one or more persons (parties) are adjudicated, conducted so that all parties have opportunity to present evidence and cross-examine witnesses, which culminates in a written decision, and that decision is subject to appeal.

- **Absence from a hearing does not preclude participation in the decision; the member must review the testimony and other evidence in order to participate.**

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## What are Deliberations?

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- Deliberations are “weighing, examining, and discussing the reasons for and against an act or decision but expressly excludes the taking of evidence and the arguments of parties.” – 1 V.S.A. § 310(1).
  - Deliberations are **not** subject to the open meeting law.
    - Deliberations are not meetings as defined. So ...*
      - No notice of the gathering is required.*
      - They can be conducted by email or telephone.*
      - No “calling to order”, adjournment or other procedural requirements*
      - No minutes are kept.*
  - A written decision doesn’t require formal adoption in open session.
  - Orally announced decision does need formal meeting and vote.
- 1 V.S.A. § 312(f).

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## Questions About Executive Sessions

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- **How Do You Get There? –**
  - Motion made in Open Session
  - Stating reason(s) for executive session
  - Affirmative vote by majority of members present
  - In some cases, finding of “substantial disadvantage” required.
- **Who May Attend?**
  - Members of the public body
  - Those invited -- reference in Motion and Minutes
    - **Staff, clerical assistants and legal counsel;**
    - **Persons who are subjects of the discussion; or persons whose information is needed.**

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## Questions About Executive Sessions

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- **What Action May Be Taken?**

No formal or binding action except if negotiating or securing real estate options

- **Formal (binding) action can only be in Open Session**

- **What Can Be Discussed?**

Confine the discussion to matter(s) that were cited as the basis for the Executive Session motion

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## **“Substantial Disadvantage” Required**

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- **If the body first finds that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage, then can have Executive Session to discuss:**

**Contracts,**

**Labor relations agreements with employees**

**Arbitration or mediation**

**Grievances (employee),**

**Pending or probable civil litigation or a prosecution to which the public body may be a party OR**

**Confidential attorney client communications made for the purpose of providing professional legal services to the body.**

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## No Substantial Disadvantage Required

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### **A finding of “substantial disadvantage” is not required for an Executive Session to:**

- Negotiate or secure a real estate purchase option
- Discuss records excepted from release under the Public Records Act (but not discussion of the subject to which the records pertain)
- Appoint, employ, or evaluate a public officer or employee BUT any final decision (appoint/employ) must be in open meeting and the reasons explained
- Discipline or dismiss a school officer or employee
- Consider a clear and imminent peril to public safety
- Review security or emergency response measures where disclosure may jeopardize public safety

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## Motion To Go Into Executive Session

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- **If a finding of “substantial disadvantage” is needed – consider the following:**

“I move that the \_\_\_\_\_ Board find that premature public knowledge of [the options to address the lawsuit by Smith] would clearly place the School Board at a substantial disadvantage because there is a risk of disclosing legal advice and trial strategy if the discussion occurs in open session.”

- **Once that finding is affirmatively made, or if not required because of topic, then:**

“I move that we enter executive session to discuss legal options with respect to the lawsuit by Smith”

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## Is Executive Session Permitted?

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- **To receive legal advice on whether to initiate litigation?**

**MAYBE:** not only if a finding is made that premature general public knowledge would place the Board at a substantial disadvantage.

- **To discuss a labor grievance with the grievant?**

**MAYBE:** but only if premature general public knowledge would clearly place the Board or grievant at a substantial disadvantage. If everything about the grievance is already "public," is there a disadvantage?

- **To vote on the issuance of a disciplinary letter against an employee?**

**NO. Discussion Yes, but the actual taking of discipline: No.**

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## Executive Session Permitted?

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- To engage in collective bargaining agreement negotiations?
- It is not a meeting of a public body

*Negotiations Committee of Caledonia Central SU v. Caledonia Central Education Ass'n*, 2018 VT 18 (Feb. 23)

- Union wanted negotiations in private; Board wanted to negotiate in open session.
- Supreme Court: Union labor negotiations are not "meetings" under the OML — the OML does not apply.

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## What If You Violate the OML?

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- The Attorney General or “any person aggrieved by a violation of the law” can bring an action in Superior Court for injunctive relief or declaratory judgement.
- Before suit, the complainant must provide the public body with written notice of the alleged violation and an opportunity to “cure” that violation.

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## If Sent a Notice of Alleged Violation ...

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- **Contact your attorney – you must respond publicly within ten calendar days after receiving notice.**
- **Call a special meeting (unless a regular meeting is scheduled in that period) and provide adequate notice and warning of the meeting, including agenda.**
- **At that meeting, discuss the substance of the allegations and determine whether there was an inadvertent violation of the law.**  
Consider executive session to receive legal advice and consult with counsel.
- **Within the 10 days, either**  
deny the allegation and state that no cure is necessary, OR  
Acknowledge an inadvertent violation and state that it will be cured within 14 calendar days.
- **Failure to respond within 10 calendar days is a denial.**  
(V.S.A. § 24-19)
- **If the public body is sued for a violation of the law, the Court can assess attorneys' fees and costs based in part on whether there was timely response to a notice of violation.**  
(V.S.A. § 24-12)

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## Open Meeting Law Litigation

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- After notice of an alleged violation and the public body issues an acknowledgment or denial of the alleged violation, and after allowing 14 calendar days for the body to cure the violation, either the Attorney General or any person aggrieved by the allegation may bring suit in Superior Court.
- Such a suit must be brought within one year from the date of the alleged violation.

<sup>1</sup> V.S.A. § 314 (a).

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## Liability For Attorneys' Fees

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- A public body is not liable for attorneys' fees arising from litigation over an inadvertent violation of the law that is cured.

1 V.S.A. § 314 (b)(1).

- However, a Court may assess attorneys' fees against a public body found to have violated the law, but the Court must consider whether the public body had a reasonable basis in fact and law for its position and that it acted in good faith, which includes responding to the notice of violation in a timely manner.

1 V.S.A. § 314 (d).

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## When is An Allegation of Violation Received?

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- Safest to assume that the public body has received an allegation when a member of the public body, or any municipal official who acts in an administrative capacity for the public body, receives a written complaint or allegation of violation.

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## How Do We “Cure” An Inadvertent Violation?

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- **An inadvertent violation is cured when the public body either ratifies or declares as void:**

any action taken at or resulting from a meeting that was not noticed in accordance with the Law;

a meeting that a person or the public was wrongfully excluded from attending;

an executive session or portion thereof that was not authorized under the Law.

- **The public body must also adopt specific measures to prevent future violations of law.**

1 V.S.A. § 314 (b)(4).

Such measures should address the particular violation(s) and might include, for example, training regarding the requirements of the Open Meeting Law, or implementation of internal procedures to assist the public body in future Open Meeting Law compliance.

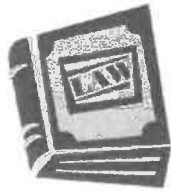
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# **RESPONDING TO PUBLIC RECORDS REQUESTS**

## **A Basic Overview of the Law**

STITZEL, PAGE & FLETCHER, P.C.

April 2019



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## RESPONDING TO PUBLIC RECORDS REQUESTS

"Public Record" or "Public Document":

- Any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business.
- Note: salaries and benefits of officials and employees of public agencies are not exempt.



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## RESPONDING TO PUBLIC RECORDS REQUESTS

In other words, the term “Public Records” is defined very broadly to include almost anything produced or acquired in the course of public business – from handwritten notes to text messages and emails.



## **RESPONDING TO PUBLIC RECORDS REQUESTS**

Are ALL emails or text messages by municipal employees or officers considered public records?

- ***NO...An email or text message to or from a municipal employee or officer is only a Public Record if it pertains to municipal business.***
- ***But I sent it with my personal email account?  
...If the email pertains to municipal business, it is still considered a Public Record.***

## **RESPONDING TO PUBLIC RECORDS REQUESTS**

Does this apply to my office or department?

- **YES....**The Vermont PRA applies to “any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state.” 1 V.S.A. § 317(a)(2).
- *In other words, the Vermont PRA applies to any office or department in state, county or local government.*

Revised Public Access Policy – June 2018

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## **RESPONDING TO PUBLIC RECORDS REQUESTS**

**When may a person inspect or copy public records under the PRA?**

- **Any person may inspect or copy any public record during customary business hours. 1 V.S.A. § 316(a).**

## RESPONDING TO PUBLIC RECORDS REQUESTS

Can I ask why the request is being made?

- No... The Vermont Supreme Court has ruled that an inquiry into the requestor's motive is inconsistent with the basic disclosure provisions of the PRA, which gives "*any person*" the right to disclosure. *Finberg v. Murnane*, 159 Vt. 431 (1992).
- Motive is irrelevant to the requestor's right to access public records.
- The capacity in which the requestor is making the request is also irrelevant. Thus, it does not matter if the request is being made by an individual for his or her own purposes, or if it is made on behalf of another for some other purpose.

## **RESPONDING TO PUBLIC RECORDS REQUESTS**

Can I ask where the requestor is from?

- *No...* Unlike some states' public records acts, such as New Hampshire, the Vermont PRA does not include a state residency or citizenship requirement.
- *ANY PERSON has the right to access, regardless of their motive, state residency, citizenship or age.*

## RESPONDING TO PUBLIC RECORDS REQUESTS



How much time do we have to respond to a public records request?

- Municipalities must provide access to public records for inspection "promptly," meaning within 3 days, subject to certain exceptions. 1 V.S.A. § 318(a).
- If the request is for a large volume of records or presents other practical issues, inform the requestor as soon as possible and explain your efforts to comply with the request.
- If more time is needed, the municipality shall inform requestor in writing, setting forth the reasons why more time is needed and specifying the date upon which the municipality will produce the copy. Maximum 10 business days after date of request.

## **RESPONDING TO PUBLIC RECORDS REQUESTS**

Can I ask the requestor to fill out a form explaining her request?

- You may ask, but the requestor cannot be required to fill out forms if they object.
- In cases where a request is made for a record not readily accessible, that may be exempt, may not exist, or may result in charges for copying or staff time – it may be useful to both the custodian and requestor to have the request in writing.



## RESPONDING TO PUBLIC RECORDS REQUESTS

The Vermont League of Cities and Towns provides a sample form that may be used for PRA requests:

- However, you cannot require it to be completed.

Town of \_\_\_\_\_, Vermont  
Request for Public Record Copies

Date \_\_\_\_\_

Dear Town Clerk:

Pursuant to the Vermont Public Record Act, 1 V.S.A. §§ 315-320, I hereby request copies of the following public records:

a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_

I am addressing this request to you as the holder of that you are the custodian of such documents. If you are not the custodian, please forward my request to the proper custodian of such documents and inform me of who that person is.

I hereby agree to pay reasonable and customary costs for these photocopies.

If the law does not allow me to have access to some of these records, please so inform me within three business days, as provided by law, and submit one of the specific exemptions that applies to each record or portion of a record being withheld. If no otherwise public record has a portion that is exempt from disclosure, I request that you black out the exempt portion and release a copy of the rest of the document together with a notation of the specific exemption that applies to the portion withheld.

If some or all of my request is denied, please tell me the title and name of the person responsible for the denial and, as the law requires, please inform me of the appeal procedures available to me and the name of the person to whom appeal may be made.

If you have questions about this request, please call me at \_\_\_\_\_.

Thank you for your help.

Signed,

\_\_\_\_\_

## RESPONDING TO PUBLIC RECORDS REQUESTS



Can I charge fees for the cost and time of making copies?

- YES...The cost of the copies themselves may be charged to the requestor.
- Costs of staff time over and above the first thirty minutes that is needed to comply with request to copy public records may be charged to the requestor.
- If a municipality agrees to create a record that does not exist, municipality may charge its costs associated with creating the record...*However*, a municipality is under no duty to create a public record that does not exist.
- If a nonstandard format is requested – such as conversion of a paper record to a PDF file - the municipality may charge for staff time over and above the first thirty minutes needed to produce the records in a nonstandard format
- Upon request, the municipality should provide an estimate of the cost of complying with the request.
- You may request that such fees are paid in full prior to deliver of the copy request.



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## RESPONDING TO PUBLIC RECORDS REQUESTS



*The Selectboard may adopt a fee schedule for the Town, OR if a fee schedule has not been adopted, the Uniform Schedule of Charges established by the Secretary of State applies:*

1. For staff time involved in physically duplicating a record, \$.33 per minute after the first 30 minutes.
2. For senior-level staff time, and information technology specialists' time spent extracting data from databases or performing similar tasks necessary to comply with a request to create a new public record, \$.57 per minute.
3. For any other staff time for which cost can be charged and collected under this section, \$.45 per minute.
4. For photocopies, \$.05 per single-sided page, \$.09 per double-sided page for pages up to 8.5 by 14 inches.
5. For color photocopies, \$1.00 per single-sided page.
6. For computer-generated paper copies, \$.02 per page for pages up to 8.5 by 14 inches.
7. For computer diskettes, \$.28 each for 3.5-inch diskettes.
8. For compact discs, \$.86 each for write-once CD w/case, \$2.31 each for re-writable CD w/case.
9. For audio tapes, \$.81 each.
10. For video tapes, \$1.69 each.
11. For DVD's, \$2.00 each for write-once DVD w/case, \$4.00 each for re-writable DVD w/case.

## RESPONDING TO PUBLIC RECORDS REQUESTS

What is the procedure if we believe a requested record is exempt?

- Inform the requestor in writing within the time required for its disclosure.
- Identify the record *or portion thereof* which is exempt and withhold it – you may not claim exemption as to the entire record unless the entire record is exempt. Redact only the exempt material.
- Provide statutory basis for exemption claimed, and state reasons for exemption briefly, as well as facts supporting denial.
- Inform requestor of the right to appeal the exemption determination.

*NOTE: A claim that a record is exempt from disclosure is strictly construed against the custodian, and any doubts should be resolved in favor of disclosure.*

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## RESPONDING TO PUBLIC RECORDS REQUESTS

Am I required to claim to claim an exemption if it applies?

- *IT DEPENDS...*In most cases, the decision to claim a record is exempt from disclosure is discretionary.
- *However*, the exemption must be claimed in some cases if the requestor seeks records containing personal or private information.



STITZEL, PAGE & FLETCHER, P.C.

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## RESPONDING TO PUBLIC RECORDS REQUESTS

Generally, the exemption must be claimed if the requestor seeks the following records:

- Tax forms showing personal and/or income-related information are exempt with the exception of the total tax due by an individual.
- Attorney-client communications containing legal advice from municipal attorney to the Town that has not been previously shared with a third-party.
- Personal information – including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information – contained in state motor vehicle records, such as traffic tickets.

*NOTE: The personal or private information contained within tax returns, motor vehicles records, and similar documents containing personal or private information may be redacted to allow for their disclosure.*

## RESPONDING TO PUBLIC RECORDS REQUESTS

- Top portion of the forms should be redacted.
- The remaining information may be disclosed.

VERMONT CIVIL VIOLATION COMPLAINT

2828071

Complainant's Name: [Redacted] Date: [Redacted]

Defendant's Name: [Redacted] Address: [Redacted]

Date of Birth: [Redacted] Sex: [Redacted] Race: [Redacted]

Charge: [Redacted]

Plea: [Redacted]

Sentencing Recommendation: [Redacted]

Signature: [Redacted]

Stitzel & Fletcher, P.C.

## RESPONDING TO PUBLIC RECORDS REQUESTS

If the requestor is denied access to public records, they may appeal to the Superior Court if they believe the records were improperly withheld.

- Example: If an exemption applied to only a portion of the records requested, but all records were withheld.
- On appeal, the Court will examine the records *in camera* to determine if the records or any part thereof are in fact exempt.
- On appeal, the burden is on the custodian to justify the exemption asserted.
- If the requestor substantially prevails in her appeal, the Superior Court must assess "reasonable attorney fees and other costs of litigation" against the Town.





## The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

### **Title 24 : Municipal And County Government**

#### **Chapter 059 : Adoption And Enforcement Of Ordinances And Rules**

**(Cite as: 24 V.S.A. § 1984)**

[Section 1984 effective until July 1, 2019; see also section 1984 effective July 1, 2019 .]

#### **§ 1984. Conflict of interest prohibition**

(a)(1) A town, city, or incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, may adopt a conflict of interest prohibition for its elected and appointed officials, which shall contain:

- (1) A definition of "conflict of interest."
- (2) A list of the elected and appointed officials covered by such prohibition.
- (3) A method to determine whether a conflict of interest exists.
- (4) Actions that must be taken if a conflict of interest is determined to exist.
- (5) A method of enforcement against individuals violating such prohibition.

(b) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a prohibition adopted under this section, "conflict of interest" means a direct personal or pecuniary interest of a public official, or the official's spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed. "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision. (Added 1999, No. 82 (Adj. Sess.), § 2.)

[Section 1984 effective July 1, 2019; see also section 1984 effective until July 1, 2019 .]

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- (B) A list of the elected and appointed officials covered by such prohibition.
- (C) A method to determine whether a conflict of interest exists.

(D) Actions that must be taken if a conflict of interest is determined to exist.

(E) A method of enforcement against individuals violating such prohibition.

(2) The requirement set forth in subdivision (1) of this subsection shall not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the municipality has established a conflict of interest policy that is in substantial compliance with subdivision (1).

(b)(1) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a prohibition adopted under this section, "conflict of interest" means a direct personal or pecuniary interest of a public official, or the official's spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed.

(2) "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision. (Added 1999, No. 82 (Adj. Sess.), § 2; amended 2017, No. 79, § 14, eff. July 1, 2019.)